

REMARKS

Claims 1-117 are now pending in the application.

Claims 43, 49 and 50 have been amended by this Amendment A. Claims 58-117 have been withdrawn in association with the following election as required by the restriction requirement.

The Examiner is respectfully requested to reconsider claims 1-57 in view of the amendments and remarks contained herein.

RESTRICTIONS/ELECTION

The Office action indicates that it is believed that there are more than a single invention under 35 U.S.C. 121.

Group I is identified as having claims 1-42 with independent claims 1 and 32 and being drawn to a method of identifying a BSAV lead compound. Group II having claims 43-57 with independent claim 43 is identified as being drawn to a method of rating compounds for BSAV efficacy. Group III is identified as having claims 58-70 with independent claim 58 and being drawn to a method for developing and marketing a BSAV lead compound. Group IV is identified as having claims 71-84 with independent claim 71 and being drawn to a method for delivering a BSAV compound to a drug company. Group V is identified as having claims 85-100 with independent claim 85 and being drawn to a method for marketing a BSAV compound to a healthcare provider for patient treatment. Group VI is identified as having claims 101-107 with independent claim 101 and being drawn to a method for treating a suspected viral infection in a patient by administering a BSAV compound to the patient. Group VII is identified as having claims 108-117 with independent claim 108 and being drawn to a method for treatment of a patient having a particular viral infection.

Claim 43 has been amended to include the recitations of claim 1. As such, claim 1 is now a generic claim to claim 43. As such, the Applicants believe that claims 43-57, as amended, should also be included in Group I and that no claims are currently in Group II.

In response to the restriction requirement, the Applicants elect Group I (claims 1-42 and 43-57 as discussed above), and withdraw, without prejudice, claims 58-117 that are in non-elected Groups III, IV, V, VI, and VII.

Applicant reserves the right to continue to prosecute the withdrawn claims in a divisional or continuation application.

CLAIM AMENDMENTS

Claim 49 has been amended to depend from amended claim 43 and to include developing a broad-spectrum antiviral drug from the identified broad-spectrum antiviral lead compound.

Claim 50 has been amended to depend from claim 43 and to differentiate the process of identifying, rather than the previous process of selecting.

The Applicants request that the amended claims 49 and 50 be considered by the Examiner.

RECLASSIFICATION OF CLAIMS/GROUPS

The Office action indicates that it is believed that Group II, Group III, Group IV, and Group V will be classified in class 705. The Applicants respectfully traverse these classifications and request reconsideration of the classification of the claims of Groups III, IV, and V as these claims do not necessarily require a data processing system or calculating computer as required for classification in class 705. As the Applicants understand class 705 and pursuant to the U.S. PTO's Classification Definition for Class 705, in order for a Patent Application to be classified in class 705, "for classification herein, there must be significant claim recitation of the data processing system or calculating computer and only nominal claim recitation of any external art environment." Citing U.S. PTO Class 705 Definition, Scope of Class, Point 3.

Each of the claims of these groups recites a new and useful process, or new and useful improvement thereof. 35 U.S.C. 100(b) and 101. As differentiated by statute, a patentable process or method is clearly different than a patentable machine, including a data processing system or calculating computer. In contrast to the definition of class 705, the method claims of these groups recite a method and do not include recitation that includes a related or associated data processing system or calculating computer.

Referring first to Group II claims, claim 43 recites a chemistry method that includes determining antiviral activity against two or more viruses. This cannot be accomplished without a scientific bio-medical process performed in a laboratory. This is not data processing process.

While the claim 43 also recites rating each compound for broad-spectrum activity as a function of the determined antiviral activity and a number of viruses for which each compound has antiviral activity, this again is a typical process performed by a chemist. While the Applicants acknowledge that the rating process could be supported by a data processing system or computer, it is not necessary. The Applicants believe that claim 43 recites a novel method within the technological art of chemistry without the unnecessary limitation of requiring a supporting computer or data processing system. As claim 43 does not include a significant recitation that requires a data processing system, the Applicants request that the claims of Group II (assuming that the claims are not grouped into Group I as requested above or in the alternative in support of their grouping within Group I) be reclassified.

With regard to Group III, Group IV, and Group V, while the Applicants acknowledge that one or more of the method processes within these claims can be supported or implemented by a data processing system or computer, the Applicants believe that the inventions recited by claims 58-100 are broader than such a particular limited implementation. Each of these claims recite, a method using a broad-spectrum antiviral compound or drug such that each method is novel over any related prior art method. The claims 58-100 recite new and useful processes that are not necessarily implemented by a data processing system. As such, the Applicants traverse the preliminary classification of claims 58-100, as grouped within Groups III, IV, and V, to class 705. The Applicants request reclassification of claims 58-100 (and the assigned groups) at this time to correct this miss-classification so that these claims are properly classified for future prosecution in one or more divisional or continuation applications.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner consider the elected claims on the merits and appropriately classify the withdrawn claims 58-100. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

Dated: 8/5/05



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